

BILL ANALYSIS

Senate Research Center

C.S.S.B. 1623
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Intergovernmental Relations
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

C.S.S.B. 1623 amends Chapter 288 (Health Care Funding Districts in Certain Counties Located on Texas-Mexico Border That Are Adjacent to Counties With Population of 50,000 or More), Health & Safety Code, to allow more local control over funding for health care services on the Texas-Mexico border by allowing counties to create a Local Provider Participation Fund. H.B. 2463, 79th Legislature, Regular Session, 2005, created health districts to support the local health care safety-net in certain counties along the Texas-Mexico border. Although the districts were created, they were never fully developed due to a lack of support from the Centers for Medicare & Medicaid Services (CMS).

C.S.S.B. 1623 addresses CMS concerns to allow the districts to become fully operational. These health districts are critical to South Texas because of the lack of funding for health care services along the border region.

South Texas has 11 hospitals between Eagle Pass and Brownsville (nearly 400 miles). Unlike other regions in the state, all 11 hospitals in the two South Texas Regional Health Partnerships (RHPs) were designated "Major Safety-Net Hospitals" as defined by the Health and Human Services Commission in the 1115 Transformation Waiver.

Of unused delivery system reform incentive payment (DSRIP), \$541 million is connected to the South Texas Border Region, representing 54 percent of the \$1 billion of unfunded DSRIP for the entire state.

The average RHP is accessing 88 percent of the DSRIP available to them via the 1115 waiver. The Laredo region is accessing only 39 percent of the DSRIP available, and the McAllen/Harlingen/Brownsville region is accessing only 45 percent of the DSRIP available (49 percent and 43 percent less than the average, respectively).

Although the 11 hospitals are major safety-net hospitals, the structure of the waiver has limited the ability of these hospitals to fully participate in the waiver. In fact, these 11 hospitals were originally allocated \$675.3 million in DSRIP but are only accessing \$93.2 million, or 14 percent of all allocated DSRIP funds. More concerning is that nine of the 11 hospitals were unable to access even a single dollar of DSRIP.

C.S.S.B. 1623 creates a Local Provider Participation Fund in each designated county. The goal of the fund is to provide fair access to funds available under the waiver for the 11 hospitals between Eagle Pass and Brownsville. The bill specifically limits the use of the Local Provider Participation Fund to the waiver and for indigent care. Furthermore, it prohibits using the funds for a Medicaid expansion. Allowing the South Texas border region to implement the Local Provider Participation Fund will not require any funds from the general revenue or investment from the state.

The waiver was designed to improve access, availability, delivery, and funding for safety-net hospitals. Failing to allow these 11 hospitals to fully participate in the waiver will fracture the South Texas health care safety-net and will undermine the core principles behind the waiver. Communities along the Texas-Mexico border will have more flexibility to fund health care services, unemployment compensation payments, and DSRIP projects if the bill is passed. Failing to allow the South Texas border region to create the Local Provider Participation Fund

will increase disparities, and will greatly harm an area of the state most in need of health care support via the waiver.

C.S.S.B. 1623 amends current law relating to the creation of a health care funding district in certain counties located on the Texas-Mexico border and authorizes the imposition of a tax.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends the heading to Chapter 288, Health and Safety Code, to read as follows:

CHAPTER 288. HEALTH CARE FUNDING DISTRICTS IN CERTAIN COUNTIES
LOCATED ON TEXAS-MEXICO BORDER THAT ARE ADJACENT TO COUNTIES WITH
POPULATION OF 50,000 OR MORE

SECTION 2. Amends Section 288.001(3), Health and Safety Code, to redefine "district taxpayer."

SECTION 3. Amends Section 288.002, Health and Safety Code, as follows:

Sec. 288.002. CREATION OF DISTRICT. Creates a district in each county located on the Texas-Mexico border that has a population of:

- (1) 500,000 or more and is adjacent to two or more counties each of which has a population of 50,000 or more;
- (2) 350,000 or more and is adjacent to a county described by Subdivision (1); or
- (3) less than 300,000 and contains one or more municipalities with a population of 200,000 or more.

SECTION 4. Amends Subchapter A, Chapter 288, Health and Safety Code, by adding Section 288.0031, as follows:

Sec. 288.0031. DISSOLUTION. Authorizes a district created by this chapter to be dissolved in the manner provided for the dissolution of a hospital district under Subchapter E (Change in Boundaries or Dissolution of District), Chapter 286.

SECTION 5. Amends Section 288.051, Health and Safety Code, as follows:

Sec. 288.051. New heading: COMMISSION. (a) Provides that each district is governed by a commission of five members, rather than by a commission of five members appointed as provided by this section.

- (b) Provides that each county commissioner on the commissioners court of the county in which the district is located serves as a member of the commission, rather than requiring each county commissioner on the commissioners court of the county in which the district is located to appoint one member who meets the qualifications prescribed by Section 288.052 (Qualification of Members of Commission) to serve on the commission. Provides that the county judge of the county in which the district is located serves as a member of the commission, rather than requiring the county judge of the county to appoint any remaining members who meet the qualifications prescribed by Section 288.052 to serve on the commission.

(c) Provides that service on the commission by a county commissioner or county judge is an additional duty of that person's office.

SECTION 6. Amends Section 288.102(a), Health and Safety Code, to prohibit a district from imposing any tax authorized by this chapter, rather than from imposing any tax authorized by this chapter, spending any money, including for the administrative expenses of the district, or conducting any other business of the commission, without an affirmative vote of a majority of the members of the commission.

SECTION 7. Amends Section 288.151, Health and Safety Code, as follows:

Sec. 288.151. New heading: HEARING. (a) Requires the commission to hold a public hearing each year on the rates and amounts of any taxes that the commission intends to impose during the year and how the revenue derived from those taxes is to be spent. Deletes existing text requiring the commission to prepare a budget for the following fiscal year that includes proposed expenditures and disbursements, estimated receipts and collections, and the rates and amounts of any taxes that the commission intends to impose during the year.

(b) Deletes existing text requiring the commission to hold a public hearing on the proposed budget.

(c) Entitles any district taxpayer to appear at the time and place designated in the public notice and to be heard regarding any matter related to the taxes imposed by the district, rather than regarding any item shown in the proposed budget.

SECTION 8. Amends Section 288.154(b), Health and Safety Code, to require that all income received by a district, including tax revenue after deducting discounts and fees for assessing and collecting the taxes, be deposited with the district depository as provided by Section 288.203 and authorizes it to be withdrawn only as provided by this chapter.

SECTION 9. Amends Subchapter D, Chapter 288, Health and Safety Code, by adding Sections 288.155 and 288.156, as follows:

Sec. 288.155. LOCAL PROVIDER PARTICIPATION FUND; AUTHORIZED USES OF MONEY. (a) Requires each district to create a local provider participation fund.

(b) Provides that the local provider participation fund consists of:

(1) all revenue from the tax imposed by this chapter, including any penalties and interest from delinquent taxes;

(2) money received from the Health and Human Services Commission (HHSC) as a refund of an intergovernmental transfer from the district to the state for the purpose of providing the nonfederal share of Medicaid supplemental payment program payments, provided that the intergovernmental transfer does not receive a federal matching payment; and

(3) the earnings of the fund.

(c) Authorizes money deposited to the local provider participation fund to be used only to:

(1) provide the nonfederal share of a Medicaid supplemental payment program;

(2) subsidize indigent programs;

(3) pay the administrative expenses of the district;

(4) refund an amount of tax collected in error from a district taxpayer; and

(5) refund to district taxpayers the proportionate share of the money received by the district from HHSC not used to fund the nonfederal share of Medicaid supplemental payment program payments.

(d) Prohibits money in the local provider participation fund from being used to expand Medicaid eligibility.

Sec. 288.156. ALLOCATION OF CERTAIN FUNDS. Requires the district, not later than the 15th day after the date the district receives a payment described by Section 288.155(c)(5), to transfer to each district taxpayer an amount equal to the proportionate share of those funds to which the taxpayer is entitled.

SECTION 10. Amends Sections 288.201(a) and (c), Health and Safety Code, as follows:

(a) Provides that an annual tax on all outpatient hospital visits to certain providers, authorized to be imposed by the commission of a district, in the first year in which the tax is imposed, is assessed on the total number of outpatient hospital visits of an institutional health care provider reported to the Department of State Health Services under Sections 311.032 (Department Administration of Hospital Reporting and Collection System) and 311.033 (Financial and Utilization Data Required) in the fiscal year ending in 2010, rather than 2003.

(c) Prohibits the rate of the tax imposed by a district commission under this section from exceeding the lesser of \$100 for each outpatient hospital visit, or six percent of the aggregate net patient revenue of all district taxpayers in the district.

SECTION 11. Amends Section 288.202(a), Health and Safety Code, to require the county tax assessor-collector, except as provided by Subsection (b) (relating to authorizing the commission of a district to contract for the assessment and collection of certain taxes), to collect a tax imposed under this subchapter (Taxes), rather than requiring the county tax assessor-collector, except as provided by Subsection (b), to collect a tax imposed under this subchapter unless the commission employs a tax assessor and collector for the district.

SECTION 12. Amends Section 288.203, Health and Safety Code, as follows:

Sec. 288.203. New heading: DEPOSIT OF TAX REVENUE. Requires that revenue from the tax imposed by this chapter be deposited in the district's local provider participation fund. Deletes existing text authorizing revenue generated by a district from a tax imposed under this subchapter to be used only to provide the nonfederal share of a Medicaid supplemental payment program, subsidize indigent programs, and pay administrative expenses of the district.

SECTION 13. Repealers: Sections 288.003 (Duration of District), 288.004 (Political Subdivision), 288.052 (Qualifications of Members of Commission), 288.053 (Term of Members of Commission), 288.054 (Vacancy), 288.055 (Officers), 288.056 (Compensation; Expenses), 288.057 (Employees and Independent Contractors), 288.058 (Maintenance of Records; Public Inspection), 288.103 (Election Required for Certain Expenditures), 288.104(b) (relating to requiring the commission to adopt certain necessary procedures), 288.105 (Purchasing and Accounting Procedures), 288.107 (Authority to Sue and Be Sued), 288.153 (Annual Audit), and 288.206 (Election Required for Certain Provisions or Procedures), Health and Safety Code.

SECTION 14. Requires a state agency, if necessary for implementation of a provision of this Act, to request a waiver or authorization from a federal agency, and authorizes a delay of implementation until such a waiver or authorization is granted.

SECTION 15. Effective date: September 1, 2013.